IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE N/S Seminary Avenue, 200' W of the c/l of Marblehead Road * DEPUTY ZONING COMMISSIONER (8504 Marblehead Road) 8th Election District * OF BALTIE COUNTY 3rd Councilmanic District * Case No. 89-286-A T.W.S., Inc. Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * * *

The Petitioner herein quests a variance to permit a window to property line distance of 10 feet in lieu of the required 15 feet, a window to window distance of 20 feet in lieu of the required 40 feet, a distance between buildings of 20 feet in lieu of the required 30 feet, and an amendment to the Final Development Plan of The Fields At Seminary, Lot 29, accordingly, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Douglas C. Corbin, Vice President of T.W.S., Inc., and the Contract Purchaser, NV Homes, Inc., by Ross Walton, Division Manager and Vice President, and Bill DeMarco, appeared, testified and were represented by Robert J. Ryan, Esquire. Also appearing on behalf of the Petition was Sam Shockley with Development Engineering Consultants, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 8504 Marblehead Road (Lot 29), zoned D.R. 2, is part of a 31-lot development known as The Fields of Seminary II. NV Homes has the contract to purchase all of the lots from T.W.S., Inc. Mr. Walton testified regarding NV Homes' experience in building homes in the Baltimore, Washington, Delaware, and McLean, Virginia areas, and in particular, their previous developments in Baltimore County. He further testified that after completing a marketing analysis of the area, it was determined that there was a need

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for ___ day of March, 1989 that the Petition for Zoning Variance to permit a window to property line distance of 10 feet in lieu of the required 15 feet, a window to window distance of 20 feet in lieu of the required 40 feet, and a distance between buildings of 20 feet in lieu of the required 30 feet, in accordance with Petitioner's Exhibit l, and to amend the Final Development Plan of The Fields At Seminary, Lot #29 accordingly, be and is hereby DENIED.

> (M Nisterwin ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

AMN:bjs

for larger, executive style homes in the area. As a result, NV Homes felt this particular development should have homes such as the Potomac, the Kingsmill and the Harrison of their line. Copies of the floor plans for each style were presented and identified as Petitioner's Exhibits 2A through 2C. The size of each home will range from 2,500 sq.ft. to 4,000 sq.ft. on an average lot size of 1/4 acre. Mr. Walton testified after numerous attempts to appropriately position the homes on each lot, it was determined that variances would be required for 9 of the 31 lots.

Testimony presented by Petitioner's witnesses indicated NV Homes firmly believes either no variances would be needed or a much smaller size variance would be required if no windows were placed in the sides of the houses. However, such a decision would not take into consideration the desires of potential homeowners. Testimony presented indicated that windows on the sides were preferrable for various reasons, including cross-ventilation, additional lighting and aesthetic appeal. Petitioner further noted that many of the windows will be installed in such a way that adjoining properties will not have dwellings with windows located directly across from one another.

Counsel for Petitioner argued that the spirit and intent of the zoning regulations had been met by the proposed plans and that flexibility was needed due to the change in marketing demands and housing costs. Counsel further argued the property is subject to the regulations which went into effect in 1970 and that said regulations do not adequately reflect todays' market and the increase in the cost of the property.

Petitioners argued that to deny the requested variances would create tremendous practical difficulty upon the Petitioners without benefiting the community. Counsel indicated notential property owners and

persons who might be adversely affected by the granting of the variances would be protected due to the fact that all parties will be advised of the variances prior to their purchase of any of the subject lots and therefore have the ability to determine whether or not such variance will adversely affect the enjoyment of their property. Petitioner contended the lots could not be resubdivided to reduce the number of lots by one or two to give additional acreage for each lot to meet setback requirements without a "two year" delay in development.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

In the opinion of the Deputy Zoning Commissioner, the variances requested herein are appropriate in some instances and excessive in others and therefore not in keeping with the spirit and intent of the zoning regulations. It is clear that N.V. Homes attempted to fit its homes on lots previously laid out by Petitioners. The variances for Lots 14, 15, 16 and 17 will be granted with restrictions as in those cases, it is felt

the requests are reasonable and within the spirit and intent of the B.C.Z.R. The desirability of having windows on the sides of a home for the reasons earlier discussed are valid. Potential purchasers can choose for themselves as to whether the variance granted herein will adversely affect the enjoyment of their property. The variance requested for Lot 18, which is larger than that requested for Lots 14, 15, 16 and 17, creates more of a problem; however, to deny the request would result in either building a house on the lot that is not in keeping with the design and style of the adjoining Lots 1 through 26, or result in re-designing many of the lots in the subdivision which, as argued, would create a practical difficulty for the Petitioners. In light of the desire of a potential purchaser to have a compatible home with others in the neighborhood and the practical difficulty which could be created for Petitioners, the variances for Lot 18 will be granted with restrictions.

With respect to Lots 28, 29, 30 and 31, Petitioner could re-adjust lot lines to create three lots in lieu of the four proposed with adequate space to either meet the setback requirements or be more in keeping with the spirit and intent of the B.C.Z.R. The testimony presented by Δ Petitioners in these instances was in support of a matter of convenience rather than of the necessity for the variances. In the opinion of the Deputy Zoning Commissioner, the variances requested were excessive. The Petitioners have failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variances requested for Lots 28 through 31 must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested for Lot 29 should be denied.

PETITION FOR ZONING VICIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 1801.2.C.1, 1801.2.C.2.b., 1801.2.C.6, 504 (VB6. b&c CMDP) To permit a window to property line distance of 10 ft. and a window to window distance of 20 ft. in lieu of the required 15 ft. & 40 ft. respectively for Lot #29 and To allow a distance between buildings of 20 ft. in lieu of the required 30 ft. all for at Seminary Lot #29 to allow same at Seminary. Lot #29 to allow same of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

- 1. Reduction in size of standard units impractical for builder.
- 2. Smaller units would be inconsistant with other units in subdivision. 3. Smaller units would be incompatable with the concept and intent of development in the immediate and surrounding neighborhoods.
- LOT #29 #8504 MARBELHEAD ROAD Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property

Contract Purchaser:	which is the subject of this Petition.		
	Legal Owner(s):		
(Type or Print Name)	T.W.S. Inc. MAP NW).	3	
Signature	Signature DOIIGLAS C. CORBIN, V.P DATE 5/25/25		
Address	(Type or Print Name) 200- B.F.		
City and State	Signature DP		
Attorney for Petitioner:			
(Type or Print Name)	4111 E. JOPPA ROAD (301) 256-1000 Address		

Name, address and phone number of legukeweers room thuck purchaser x representative to be contacted

STEVEN L. FADER
DEVELOPMENT ENGINEERING CONSULTANTS, INC. Name 6603 YORK ROAD Attorney's Telephone No.: BALTIMORE, MD. 21212 (301) 377-2600

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day

ESTIMATED LENGTH OF HEARING (-1/28R.) +1ER. AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS

Zoning Commissioner of Baltimore County

Development Engineering Consultants, Und Site Engineers & Surveyors

> DESCRIPTION TO ACCOMPANY PETITION FOR VARIANCE REQUEST

OUTLINE DESCRIPTION OF LOT NO. 29 OF THE FIELDS AT SEMINARY II, ALSO BEING KNOWN AS #8504 MARBELHEAD ROAD. LOCATED IN THE 8TH ELECTION DISTRICT OF BALTIMORE COUNTY, MARYLAND.

Beginning for the same at a point on the northern-most rightof-way line of Seminary Avenue; said point being distant 200 ± feet westerly from the centerline of Marbalhead Road right-of-way, thence running for the following 4 courses and distances viz: (1) North 80 degrees 06 minutes 47 seconds West, 80.00 feet; (2) North 09 degrees 53 minutes 13 seconds East, 125.00 feet; (3) South 80 degrees 06 minutes 47 seconds East, 80.00 feet; (4) South 09 degrees 53 minutes 13 seconds West, 125.00 feet to the point of beginning.

Containing 0.23 acres of land more or less.

Being the same parcel as shown on a plat entitled "The Fields at Seminary II", to be recorded.

88-102 10-07-88

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner

#164

T.W.S., Inc. 4111 E. Joppa Road Baltimore, Maryland 21236

ATTN: DOUGLAS C. CORBIN

Dennis F. Rasmussen

RE: Petition for Zoning Variances CASE NUMBER: 89.286.A

Gentlemen:

Please be advised that $\frac{124.58}{1}$ is due for advertising and posting of the above referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office unit1 the day of the hearing

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign & post set(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

BALTIMORE COUNTY, MARYLAND No. 0007000	above fee for each su
MISCELLANEOUS CASH RECEIPT	urs,
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6603 York Road Baltimore, Maryland 21212 (301) 377-2600

CERTIFICATE OF POSTING CONING DEPARTMENT OF BALTIMORE COUNTY

	Townen, Maryland	89-286-A
District & 1/2	Det_ of	Posting January 5-87
Posted for: Variance	_ 	
Petitioner: TWS /m	<u> </u>	
Location of property: NSA	Somewary are. 20	00'W M the
CIR of marbleh	ead Road Ist 29	(8504 marklined Boxes
Location of Sime hoth sie	le Seminary Ave. 1	it the frest of
Location of property: NSA CLL of Marbleh Location of Signa: Matheria Lot #29	1.	7
Remarks:		
Posted by	Date of return	1-13-89
Signature Funder of Signs:		

NOTICE OF HEARING The Zoning Commissioner of	CERTIFICATE OF PUBLICATION
Belimme County, by authority of the Zorwing Act and Regulations of Baltimore County will hold a	
mitted herein in Room 106 of the County Office Building, lo-	TOWSON, MD., January 5, 19.8
cated at 111 W. Chesapeake Av.	1 1 authormant was

TOWSON, MD., January 5 , 19 89 THIS IS TO CERTIFY, that the annexed advertisement was

published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on Jan 5, 1987.

> THE JEFFERSONIAN TOWSON TIMES,

PO 07847

89-286-A

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this 2nd day of _______, 1968.

Received by: Chairman, Zoning Plans

Advisory Committee

Dennis F. Rasmussen

Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

Petitioner 7.7.5., Trc.

Petitioner's

Attorney

Petition for Zoning Variance Case number: 89-286-A NS Seminary Avenue, 200' W

29) Bith Election District 3rd Councilmanic Petitioner(s): T.W.S., Inc.

Varience: to permit a window

R. and 40 ft. respectively for Lot #29 and to permit a distance between buildings of 20 ftgm lieu of the required 30 ft., all for Lot #29 and to amend the Final Development Plan of The Fields at Seminary, Lot #29 to allow same.

In the event that this Petition is

granted, a building permit may be issued within the thirty (30) day

appeal period. The Zoning Con-missioner will, however, entertain

mssioner was now a stay of the is-suance of said permit during this period for good cause shown. Such request must be in writing

March 3, 1989

Robert J. Ryan, Esquire 4111 E. Joppa Road Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE N/S Seminary Avenue, 200' W of the c/l of Marblehead Road (8504 Marblehead Road - Lot 29) 8th Election District - 3rd Councilmanic District T.W.S., Inc. - Petitioner Case No. 89-286-A

Dear Mr. Ryan:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotta Radcliffe at 494-3391.

> Very truly yours, / M M Masterwan

INN M NASTAROWICZ Deputy Zoning Commissioner for Baltimore County AMN:bjs

cc: Ms. Mary Ginn 606 Horncrest Road, Towson, Md. 21204

People's Counsel File

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

DEC 1 9 1968

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

NOTICE OF HEARING

PETITION FOR ZONING VARIANCE Case Number: 89-286-A NS Seminary Avenue , 200' W c/l Marbelhead Road 8504 Marblehead Rd. (Lot 29) 8th Election District - 3rd Councilmanic Petitioner(s): T.W.S., Inc. HEARING SCHEDULED: WEDNESDAY, JANAURY 25, 1989 at 9:30 a.m.

Variance to permit a window to property line distance of 10 ft. and a window to window distance of 20 ft. in lieu of the required 15 ft. and 40 ft. respectively for Lot #29 and to permit a distance between buildings of 20 ft. in lieu of the required 30 ft., all for Lot #29 and to amend the Final Development Plan of The Fields at Seminary, Lot #29 to allow same.

In the event this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

December 2, 1988

NS Seminary Avenue, 200' W. of c/1 of Marbelhead Dennis F. Rasmussen

Zoning Agenda: "eeting of 11/1/88

J. ROBERT HAINES Zoning Commissioner of Baltimore County

> Baltimore County Fire Department

494-4500

Paul H. Reincke

Towson, Maryland 21204-2586

J. Robert Haines, Zoning Commissioner

Re: Property Owner: T. W. S., Inc.

ment of Public Works.

prior to occupancy.

() 6. Site plans are approved, as drawn.

Special Inspection Division

Road, #8504 Marbelhead Road

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required

() 1. Fire hydrants for the referenced property are required and shall be

located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Depart-

Fire Prevention Code prior to occupancy or beginning of operation.

comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition

to be corrected or incorporated into the final plans for the property.

() 2. A second means of vehicle access is required for the site.

() 7. The Fire Prevention Bureau has no comments at this time.

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the

(x) 5. The buildings and structures existing or proposed on the site shall

ALL APPROVED:

Fire Prevention Bureau

() 3. The vehicle dead end condition shown at ____

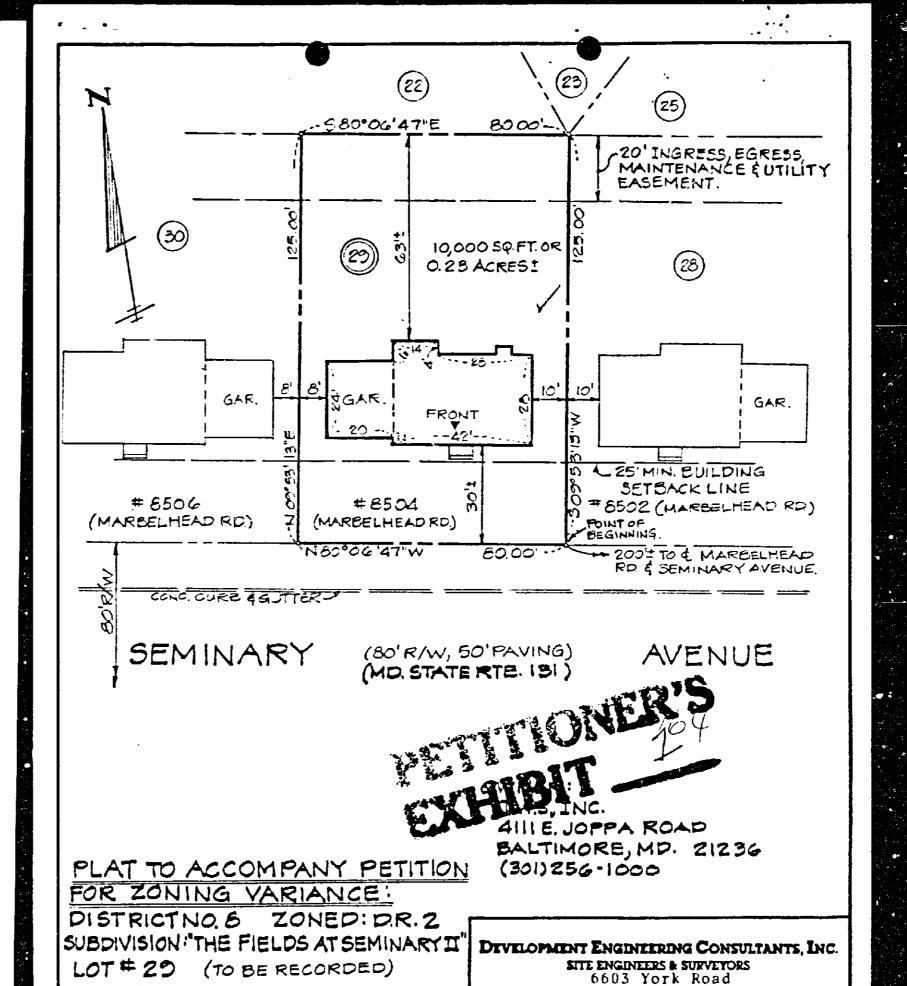
Office of Planning & Zoning

Towson, Maryland 21204

Item No.:

Gentlemen:

Baltimore County Office Building



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave.

#8504 MARBELHEAD ROAD

Burcau of Department of Traffic Engineering

Fire Prevention Health Department Project Planning Building Department Board of Education Zoning Administration Douglas C. Corbin, Vice President T.W.S., Inc. 4111 East Joppa Road Baltimore, Maryland 21236

> Petitioner: T.W.S., Inc. Petition for Zoning Variance

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled

Enclosures

cc: Steven L. Fader Development Engineering Consultants, Inc. 6603 York Road Baltimore, MD 21212

Issued: 10-3-881

January 17, 1989

Baltimore, Maryland 21212

Dear Mr. Corbin:

EXIST. UTILITIES IN SEMINARY AVENUE THANK OF Scole: 1"=30"

State Roads Commission Bureau of

RE: Item No. 164, Case No. 89-286-A

accordingly.

Very truly yours,

Zoning Plans Advisory Committee

• The issue of compatibility within the subdivisions and neighborhood raises questions of identical homes being provided within the subdivision, and similar lot sizes and building sizes located in the surrounding community. The desire to provide identical homes throughout the subdivision should have taken into consideration the lot configuration approved for the development. Obviously, the desire to maintain & standard building form on smaller lot widths is dictating the need for variances.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

SUBJECT TWS, Inc. (The Fields at Seminary II - Lots, 14,15,16,17,13,23,29,30)

The applicant is requesting a series of variances to allow a reduced building

• The applicant states that 1) a reduction in size of standard units is

in the subdivision; and 3) smaller units would be incompatible with

the concept and intent of development in surrounding neighborhoods.

The statement of hardship implies that adhering to zoning standards

estimates, building widths would average 50 feet in length and range

to zoning requirements would <u>not</u> in fact result in smaller building sizes being constructed on the site. Certainly, <u>different</u> building

footprints would be required on the site but not smaller building

between 115 and 125 feet in depth and fall within the required building restriction lines. This buildable lot area would provide a building

footprint of approximately 5,700 square feet or larger in size. Adhering

would result in the provision of smaller units. Based upon staff

impractical, and 2) smaller units would be inconsistent with other units

separation (distance between buildings) for 9 lots in a 31 lot subdivision.

In reference to this request, staff provides the following information:

Zoning Petition Nos. 89-280-A through 39-288-A

Date___ January 20, 1989

J. Robert Haines

Pat Keller, Deputy Director

FROM Office of Planning and Zoning

TO Zoning Commissioner

footprints.

PK/sf

Staff's main concern in situations such as these is maintaining the integrity of the density residential concept and the basic design tenets of the CMDP Manual. Regardless of windows and building heights, the primary goal of building separation is to provide for light, air, noise reduction, open space and nuisance reduction. Based upon these general considerations, staff would recommend a minimum building separation be provided based upon the 45 percent rule that maintains a 45 degree angle from the edge of structure ridgeline to base of adjoining structure. Using this basic principle, a 20 foot building separation between non-garage sides should be provided, and a 30 foot separation between non-garage sides should be provided.

ZONING OFFICE